Fully Developed Claims (Compensation) - Refresher

Trainee Handout

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Objectives

Upon completion of this training, theVSRwill be able to:

* process fully developed claims
* exclude those claims that do not meet the criteria
* determine the correct effective date for a grant of benefits
* understand any new manual guidance
* recognize common error trends

References

* [PL 112-154](https://www.gpo.gov/fdsys/pkghttps%3A/www.gpo.gov/fdsys/pkg/PLAW-112publ154/pdf/PLAW-112publ154.pdf/PLAW-112publ154/pdf/PLAW-112publ154.pdf), Honoring America’s Veterans and Caring for Camp Lejeune Families
* [38 CFR 3.156](http://www.ecfr.gov/cgi-bin/text-idx?SID=ad275643432556b9dda942343fb89296&mc=true&node=pt38.1.3&rgn=div58#se38.1.3_1156), New and Material Evidence
* [M21-1 Part I, 1.B](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014065%2FM21-1-Part-I-Chapter-1-Section-B-Duty-to-Notify-Under-38-USC-5102-and-5103), Duty to Notify Under 38 U.S.C. 5102 and 5103
* [M21-1 Part III, Subpart i, 3.A](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014109%2FM21-1-Part-III-Subpart-i-Chapter-3-Section-A-General-Information-About-the-Fully-Developed-Claim-FDC-Program), General Information About the Fully Developed Claim (FDC) Program
* [M21-1 Part III, Subpart i, 3.B](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014110%2FM21-1-Part-III-Subpart-i-Chapter-3-Section-B-Processing-Fully-Developed-Claims-FDCs), Processing Fully Developed Claims (FDCs)

Topic 1: Fully Developed Claims (Compensation) Recap

**Appropriate Claim Forms**

All Fully Developed Claims for compensation must be submitted on a complete VA Form 21-526EZ, [Application for Disability Compensation and Related Compensation Benefits](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#2e). If the Veteran submits a claim on any other form and indicates that (s) he wants to participate in the Fully Developed Claim Program, we must exclude the claim.

The VA Form 21-526EZ provides the notice [38 U.S.C. 5103](https://www.law.cornell.edu/uscode/text/38/5103) requires for the following types of disability compensation claims:

* service connection, including requests to reopen a previously denied claim, for disabilities related to the following types of service:
	+ active duty
	+ active duty for training, or
	+ inactive duty training
* secondary service connection
* increased disability rating
* individual unemployability
* temporary total disability rating due to
	+ hospitalization, or
	+ surgical or other treatment
* compensation under 38 U.S.C. 1151
* special monthly compensation (SMC) based on the
	+ need for aid and attendance, or
	+ status of being housebound
* additional benefits for a spouse who needs aid and attendance
* specially adapted housing or special home adaption
* automobile allowance or adaptive equipment, and
* additional compensation for a Veteran with a child incapable of self-support

After March 24, 2015, if the VA Form 21-526EZ is not complete (including claimed contentions and a signature), the application is considered incomplete and the process in [M21-1, Part I. 1.B.1.e](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014065%2FM21-1-Part-I-Chapter-1-Section-B-Duty-to-Notify-Under-38-USC-5102-and-5103), must be followed. Always attempt telephone development before following this process.

*When an incomplete application is received*

* *establish an EP 400 to control the correspondence and use the date the application was received as the control date*
* *cancel any erroneously established EP after notifying the claimant about the incomplete application*
* *print a copy of the incomplete application*
* *mark the blocks on the application in red that require the claimant’s attention*
* *return the incomplete application to the claimant and notify him or her (and the claimant’s representative, if any) via use of the Incomplete Application letter included in the Letter Creator Tool*
	+ *of the information VA needs to consider the application complete, and*
	+ *that failure to submit a substantially complete application within one year will result in no benefit being paid or furnished by reason of that application*
* *add a copy of the application and the decision notice to the claims folder, and*
* *clear (PCLR) the EP 400.*

*Note: When appropriate, contact the claimant first by telephone to obtain the information needed to complete the application.*

If a non-original Fully Developed Claim is not signed by the Veteran but signed and submitted by the POA, the process above does not apply, however, we must send a 5103 letter.

If the claim was received before March 24, 2015, please follow guidance in [M21-1, Part III, Subpart I, 3.A.2.h-k](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014109%2FM21-1-Part-III-Subpart-i-Chapter-3-Section-A-General-Information-About-the-Fully-Developed-Claim-FDC-Program), and work the claim expeditiously.

**Fully Developed Claims Exclusions**

Not all compensation claims submitted on the VA Form 21-526EZ are included in the Fully Developed Claims Program. When the claim does not meet certain criteria, it should be excluded from the program.

At time of CEST, the claim should be reviewed for inclusion in the Fully Developed Claims Program is during the initial review. The following are reasons for exclusion during the initial review period:

* the Veteran opts out of the program by checking box 26 on the VA Form 21-526EZ
* a claim or appeal is pending at the time the VA Form 21-526EZ is received
* the Veteran fails to simultaneously submit all forms *necessary* to process the compensation claim
* development to a non-federal entity or the claimant is required
* a character of discharge determination is needed, or
* the Veteran is still on Active Duty

If the claimant submits a dual claim for compensation and pension, each claim should be reviewed separately and inclusion determined on an individual basis. Example: Veteran submits a VA Form 21-526EZ and 21-527EZ. The compensation claim does not require any development outside of an increase exam, but the pension claim needs income verification. You should keep the compensation claim in the Fully Developed Claims Program and exclude the pension claim.

After the initial touch, the VSR should review the claim each time it is worked to determine if the claim should remain in the Fully Developed Claim Program. If any of the following scenarios occur, we must exclude the claim from the Fully Developed Claims Program:

* the Veteran submits additional evidence, unless we requested this evidence in our original development letter or it is duplicate (more on this in the development section of this training)
* the Veteran fails to report for an exam and asks for us to reschedule (unless the VA is solely at fault)
* the Veteran submits an additional claim or Notice of Disagrement

If any of the above criteria are met, we must exclude the claim from the Fully Developed Claims Program, update systems, and send the Veteran a notification letter explaining that we have excluded him and why.

To update the system, the VSR must remove the *Fully Developed Claim* special issue in VBMS and replace it with the appropriate special issue. The list of special issues can be found below:

* FDC Excluded – Claimant declined FDC processing
* FDC Excluded – Claim pending
* FDC Excluded – Appeal pending
* FDC Excluded – All Required Items Not Submitted
* FDC Excluded – Needs Non-Fed Evidence Development
* FDC Excluded – Requires INDPT VRFCTN of FTI (income verification
* FDC Excluded – Evidence received after FDC CEST
* FDC Excluded – FTR to exam
* FDC Excluded – Additional claim submitted
* FDC Excluded – Appeal Submitted

When sending a notification letter to the Veteran, the VSR has three options:

* using the *FDC Writeout* template under the IPC drop down in Letter Creator, or
* adding the text found in that letter as free text into a VBMS development letter, or
* adding the text into a PCGL letter.

In previous years, we excluded claims from the Fully Developed Claims Program based on different criteria or did not have specific guidance explaining how to handle certain scenarios. Do not exclude claims for the following reasons:

* we need to develop for federal records, even if:
* we need a VA Form 21-4142 and 4142a
* the records are National Guard or Reserve records
* we need a NA Form 13055
* we gather necessary information from the Veteran over the phone

the Veteran fails to show for his exam, but does not request the exam to be rescheduled

**Fully Developed Claims Development**

Generally, 5103 letters are not required when working claims submitted on a VA Form 21-526EZ.

Although the Veteran has submitted the claim on a VA Form 21-526EZ, development is still required for federal records and special issues. Do not exclude the Veteran from the Fully Developed Claims Program because of this development.

We are required to develop for the following federal records:

* STRs
* military personnel records
* VAMC records (both CAPRI and paper)
* military treatment facility (MTF) records (to include a VA Form 21-4142 and 4142a, if required)
* Vet Center records (to include a VA Form 21-4142 and 4142a)
* fire-related records development
* Reserve and National Guard records
* clarifications made by telephone contact
* VA examinations

When requesting federal records, **DO NOT** send simultaneous development to the Veteran.

We are required to develop to the Veteran for any relevant information for the following types of special issues claims:

* herbicide exposure
* asbestos exposure
* ionizing radiation exposure
* hepatitis
* fire-related STRs
* military sexual trauma
* participation in special operations
* homelessness

If we already have the necessary evidence of record or can grant the benefit sought based on the evidence of record, no development is required.

If at any time, we develop to the Veteran while the claim remains in the Fully Developed Claims Program, the following text must be included in the development letter:

*You submitted your claim under the Fully Developed Claim (FDC) Program; however, we need additional information from you. Since your claim is part of the FDC Program, if you submit evidence other than what is requested below, your claim will be excluded from the FDC Program.*

**Revising FDC Exclusion Status**

Occasionally claims are incorrectly excluded from the Fully Developed Claims Program or regulations change that allows us to include previously excluded claims. If during your review of the claim, you discover that the claim should not have been excluded from the Fully Developed Claims Program (either because of error or outdated guidance), reinstate the claim. If during your review, you discover that regulations have changed and the claim should now be excluded, **DO NOT** exclude the claim. If during your review, you discover that the claim has been incorrectly retained in the Fully Developed Claims Program, exclude the claim.

**Fully Developed Claims Effective Dates**

There are a number of regulations that govern effective dates. Since a fully developed claim can be virtually any type of claim, determining the effective date for a fully developed claim can sometimes be difficult. When trying to determine the effective date, remember that our normal effective date regulations still apply to Fully Developed Claims.

However, if an original Fully Developed Claim for compensation was received between August 6, 2013, and August 5, 2015, the VA has been authorized to grant the service connection for any condition on the Fully Developed Claim up to one year earlier than the date of claim. There are three things to remember before assigning the one-year retroactive effective date:

* If the Veteran was discharged less than one year before the date of claim, VA cannot grant service connection for any claims back to a date when the Veteran was still on Active Duty. When granting on a direct service connection basis, the effective date should be the day after the Veteran was discharged from Active Duty.
* If the medical evidence clearly shows that the conditions did not exist one year prior to the date of claim, the VA cannot grant service connection back one year. Such evidence must show conclusively and persuasively that the disability did not exist during the retroactive period. If so, the effective date should be the date of the diagnosis of the condition. If the records do not discuss the condition, do not assume that the Veteran did not have the condition. Only grant from the date of diagnosis if there is evidence that specifically discusses that the Veteran did not have said condition.
* For original compensation Fully Developed Claims received before March 24, 2015, the one-year retroactive effective date can only be applied to the date the original, formal Fully Developed Claim was received by the VA. This one-year retroactive effective date cannot be applied to informal claims or RFAs.
* For original compensation Fully Developed Claims received on/after March 24 through August 5, 2015, the one-year retroactive effective date can be applied to the date VA received an Intent to File (ITF), provided a complete Fully Developed Claim is received within one year of the date of receipt of the ITF.

Even if the Veteran files a claim or Notice of Disagreement on or after August 6, 2015, the Veteran may still be eligible for the one year retroactive effective date. If the Veteran’s original compensation claim met all Fully Developed Claims inclusion requirements, the RVSR can grant the additional one year retroactive effective date when:

* the Veteran files a timely Notice of Disagreement on an original compensation claim that was submitted between August 6, 2013, and August 5, 2015
* the Veteran files a timely request for reconsideration on an original compensation claim that was submitted between August 6, 2013, and August 5, 2015
* a Clear and Unmistakeable Error is discovered on an original compensation claim that was submitted between August 6, 2013, and August 5, 2015

Even if the grant is based on new evidence submitted or identified by the Veteran, the earlier effective date can be granted.

**\*\*Remember, if the original compensation claim was incorrectly excluded or excluded based on outdated guidance, we should retroactively reinstate the original claim into the Fully Developed Claims Program and grant the earlier effective date.\*\***

Topic 2: New FDC Manual Guidance

**Fully Developed Claims Notification Letter – Letter Creator**

A new template, *FDC Writeout Letter*, has been added to Letter Creator. This letter has the correct text for all Fully Developed Claims exclusion reasons. This template can be found under the IPC drop down. Fill in all the Veteran’s information on the Letter Creator screen and select the appropriate exclusion reason.

If the VSR is already sending a development letter to the Veteran, the VSR should copy the text from the Letter Creator template as free text into that letter.

If the VSR is not sending a letter to the Veteran, Letter Creator should be utilized.

If the VSR does not have access or cannot use Letter Creator or VBMS, the text can be copied from the template into PCGL.

**Gulf War Development**

Previously, the manual stated that Gulf War claims often needed additional development as a special issue claim. This is no longer a requirement as it has been determined that the VA Form 21-526EZ will sufficiently notify the Veteran of any needed information to help substantiate the claim.

**Exam FTR Reconsideration – Effective Date**

As previously mentioned, if the Veteran files a timely Notice of Disagreement or request for reconsideration on a claim that was previously included in the Fully Developed Claims Program, we can grant a one year earlier effective date, for claims submitted between August 6, 2013, and August 5, 2015. Recently a discussion on Pulse was noticed by Compensation Service staff and further clarification was requested. [M21-1 Part III, Subpart I, 3.B.5.b](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/#!agent/portal/554400000001034/article/554400000014110/M21-1-Part-III-Subpart-i-Chapter-3-S) has been recently updated to clarify that even if the Veteran did not report for his exam, we can still grant the earlier effective date on appeal or reconsideration as long as the Veteran did not request reexamination during the original claim.

Example: The Veteran submits an original claim for a lower back condition on 7/13/2014. We order an exam but the Veteran does not show and an RVSR denies the claim. The Veteran comes in within a year and asks for reconsideration of his previous claim as he is now able to show for an exam. The Veteran shows for the second exam and an RVSR can grant the lower back condition. If medical evidence allows, the RVSR can grant the lower back condition effective 7/13/2013.

Topic 3: FDC Error Trends

**Error 1 – Effective Dates (D1)**

The Veteran submitted an original claim for service connection for posttraumatic stress disorder (PTSD) on VA Form 21-526EZ. We received this claim on July 31, 2015. The claim met all requirements to be included in the Fully Developed Claims Program. The rating granted PTSD at a 50% evaluation effective July 31, 2015, the date of claim. The Veteran was discharged from service on December 21, 1969. There was no medical evidence showing that PTSD did not exist prior to the date of claim.

This is incorrect as [PL 112-154 Section 506](https://www.gpo.gov/fdsys/pkghttps%3A/www.gpo.gov/fdsys/pkg/PLAW-112publ154/pdf/PLAW-112publ154.pdf/PLAW-112publ154/pdf/PLAW-112publ154.pdf) allows for a one-year retroactive effective date for awards of disability compensation based on a fully developed original compensation claim submitted between August 6, 2013, and August 5, 2015. Since the original claim was included in the Fully Developed Claims Program, we should have granted PTSD with an effective date of July 31, 2014.

**Error 2 – Effective Dates (D1)**

A Veteran, who is currently service connected for posttraumtic stress disorder, submitted a new claim for service connection for bilateral hearing loss and tinnitus on VA Form 21-526EZ. We received this claim on March 30, 2015. The claim met all requirements to be included in the Fully Developed Claims Program. The rating granted tinnitus at a 10% evaluation and bilateral hearing loss at a 0% evaluation both effective March 30, 2014, a year prior to the date of claim. The Veteran was discharged July 29, 1982. There was no medical evidence showing that bilateral hearing loss or tinnitus did not exist prior to the date of claim.

This is incorrect as [PL 112-154 Section 506](https://www.gpo.gov/fdsys/pkghttps%3A/www.gpo.gov/fdsys/pkg/PLAW-112publ154/pdf/PLAW-112publ154.pdf/PLAW-112publ154/pdf/PLAW-112publ154.pdf) allows for a one-year retroactive effective for awards of disability compensation based on a fully developed original claim submitted between August 6, 2013, and August 5, 2015. Since this is not an original claim, no one-year retroactive effective date is warranted.

**Error 3 – System Error (S1)**

The Veteran submitted an original claim for service connection on

VA Form 21-526EZ. We received this claim on May 2, 2016. The Veteran checked box 26 on the VA Form 21-526EZ. The Veteran’s claim was kept in the Fully Developed Claims Program.

The systems were not updated correctly. According to [M21-1 Part III, Subpart i, 3.B.2.a, d, & e](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014110%2FM21-1-Part-III-Subpart-i-Chapter-3-Section-B-Processing-Fully-Developed-Claims-FDCs), we should have removed the *Fully Developed Claim* flash and added the *FDC Excluded – Claimant declined FDC processing* flash.

Error 4 – Development (B2)

met all requirements to be included in the Fully Developed Claims Program. The Veteran submitted a completed VA Form 21-0781a with the claim. During the initial claim review, the VSR developed for STRs and personnel records. During the second review, development was sent to the Veteran for stressor details. No other development actions were taken.

The development was incomplete and incorrect as this is a claim for posttraumatic stress disorder based on military sexual trauma. According to [M21-1, Part IV, Subpart ii, 1.D.5.e](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014906%2FM21-1-Part-IV-Subpart-ii-Chapter-1-Section-D-Claims-for-Service-Connection-SC-for-Post-Traumatic-Stress-Disorder-PTSD) and [M21-1, Part III, Subpart i, 3.B.3.e,](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014110%2FM21-1-Part-III-Subpart-i-Chapter-3-Section-B-Processing-Fully-Developed-Claims-FDCs) the claim should have been forwarded to the Women’s Veteran Coordinator for a phone call/development for the DD Form 2910. Also, the VA Form 21-0781a was complete and according to [M21-1, Part III, Subpart i, 3.B.3.d](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014110%2FM21-1-Part-III-Subpart-i-Chapter-3-Section-B-Processing-Fully-Developed-Claims-FDCs), we should not have developed for stressor details again. Lastly, when the VSRs sent both of the development letters, the VSRs did not include the appropriate Fully Developed Claims development autotext. According to [M21-1, Part III, Subpart i, 3.B.3.g](https://vaww.compensation.pension.km.va.gov/system/templates/selfservice/va_ka/portal.html?encodedHash=%23!agent%2Fportal%2F554400000001034%2Farticle%2F554400000014110%2FM21-1-Part-III-Subpart-i-Chapter-3-Section-B-Processing-Fully-Developed-Claims-FDCs)**, this paragraph must be included in any development letter sent for a Fully Developed Claim.**